

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of a Notice of Election)	
of Embark Missouri, Inc. for Waiver of)	Case No.
Commission Rules and Statutes Pursuant)	
to Section 392.420 RSMo. (2008))	

EMBARQ'S NOTICE OF ELECTION TO WAIVE RULES AND STATUTES

COMES NOW Embark Missouri, Inc. ("Embark"), pursuant to Section 392.420, RSMo 2008¹, and hereby notifies the Missouri Public Service Commission of its election for waiver of certain Commission rules and statutory provisions. In support of its Notice of Election, Embark states as follows:

1. Embark is a Missouri corporation with its principle office in Jefferson City, MO. It may be contacted at the electronic mail address, facsimile and telephone number of its attorney as set forth under Paragraph 2 below. Embark is a "local exchange telecommunications company" and a "public utility", as those terms are defined in Section 386.020, RSMo 2000.

2. All correspondence, pleadings, orders, decisions, and communications regarding this proceeding should be sent to:

Kevin K. Zarling
400 West 15th Street, Suite 400
Austin, Texas 78701
(512) 867-1075 (phone)
Kevin.K.Zarling@Embark.com

with copies provided to:

John Idoux
5454 West 110th Street
Overland Park, Kansas 66211
(913) 345-6692
john.idoux@embark.com

¹ All statutory references regarding Section 392.420 refer to the revised statute pursuant to HB 1779, effective August 28, 2008.

3. Embarq has no unsatisfied final judgments or decisions against it from any state or federal agency or court, which involves retail customer service or rates, which action, judgment or decision has occurred within three (3) years of the date of this application. Embarq does not have any annual report or assessment fees that are overdue.

4. Section 392.420 states in relevant part:

In the case of an application for certificate of service authority to provide basic local telecommunications service filed by an alternative local exchange telecommunications company, and for all existing alternative local exchange telecommunications companies, the commission shall waive, at a minimum, the **application and enforcement of its quality of service and billing standards rules, as well as the provisions of subsection 2 of section 392.210, subsection 1 of section 392.240, and sections 392.270, 392.280, 392.290, 392.300, 392.310, 392.320, 392.330, and 392.340.** Notwithstanding any other provision of law in this chapter and chapter 386, RSMo, **where an alternative local exchange telecommunications company is authorized to provide local exchange telecommunications services in an incumbent local exchange telecommunications company's authorized service area, the incumbent local exchange telecommunications company may opt into all or some of the above-listed statutory and commission rule waivers by filing a notice of election with the commission that specifies which waivers are elected.** In addition, where an interconnected voice over Internet protocol service provider is registered to provide service in an incumbent local exchange telecommunications company's authorized service area under section 392.550, the incumbent local exchange telecommunications company may opt into all or some of the above-listed statutory and commission rule waivers by filing a notice of election with the commission that specifies which waivers are elected. [Emphasis added]

5. Under 392.420, where there is an alternative local exchange telecommunications company authorized to provide local exchange telecommunications services in an incumbent local exchange telecommunications company's authorized service area, the incumbent local exchange telecommunications company may opt into the statutory and commission rule waivers. The Commission has found in numerous cases that alternative local exchange carriers are authorized to provide service in Embarq's exchanges. Attachment B lists those certification cases in greater detail, including identifying the alternative local exchange carriers and the case number, and identifies a partial list of CLECs that are authorized to provide local basic service in

all of Embarq's exchanges. Moreover, in a recent decision, the Commission found competition by alternative local exchange carriers existed in many of Embarq's exchanges.²

6. Embarq hereby exercises its statutory right to elect to opt into the waiver of the application and enforcement of quality of service and billing standards rules and the statutory requirements listed in § 392.420. By opting into the waivers contained in this Notice of Election, Embarq does not waive any right or opportunity to seek additional waivers in the future. The specific rules and statutes to be waived are listed in Attachment A.

WHEREFORE, Embarq hereby provides the Commission with written notice of its election to opt into waivers of certain rules and statutes pursuant to Section 392.420 commencing on the date of this filing.

Respectfully submitted,

EMBARQ MISSOURI, INC.



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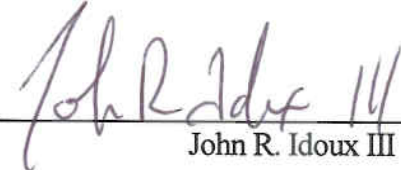
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(512) 867-1075 (phone)
(512) 472-8362 (fax)
Kevin.K.Zarling@Embarq.com

² IO-2008-0092 – In the Matter of the Review of the Competitive Classification of the Exchanges of Embarq Missouri, Inc., d/b/a Embarq

VERIFICATION

STATE OF KANSAS)
)ss.
COUNTY OF JOHNSON)

I, John R. Idoux III, being duly affirmed according to law, depose and say that I am authorized to make this affidavit on behalf of Embarras Missouri, Inc., being the Manager, Regulatory Affairs, and that the facts above set forth are true and correct to the best of my knowledge, information and belief.




John R. Idoux III

SUBSCRIBED AND SWORN to before me this 27th day of August 2008.

My Commission Expires:





Notary Public in and for said
County and State

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 28th day of August 2008, a copy of the above and foregoing document was served via electronic mail, facsimile or U.S. Mail, postage prepaid to each of the following:

William K. Haas
Deputy General Counsel
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65101
gencounsel@psc.mo.gov

Lewis Mills
Office of the Public Counsel
P. O. Box 2200
Jefferson City, MO 65101
opcservice@ded.mo.gov

A handwritten signature in cursive script, reading "Kathryn M. Mehren", is written over a horizontal line.

Attachment A

Commission Rules To Be Waived:

4 CSR 240-3.550 (4) and (5)(A)
4 CSR 240-32.060
4 CSR 240-32.070
4 CSR 240-32.080
4 CSR 240-33.040 with the exception of subsection (4) which will remain in effect
4 CSR 240-33.045

Statutory Sections To Be Waived:

Subsection 2 of section 392.210 RSMo.

Subsection 1 of section 392.240 RSMo.

Sections 392.270, 392.280, 392.290, 392.300, 392.310, 392.320, 392.330, and 392.340 RSMo.

Attachment B

Summary of EMBARQ Competitive Classification Cases

<i>Case No.</i>	<i>Company</i>	<i>Exchanges Granted Competitive Classification</i>	<i>Wireline Competitor</i>
IO-2003-0281	Sprint Missouri	Residential: Kearney, Norborne, Rolla Business: Kearney, Norborne, Rolla	ExOp dba Unite, Fidelity, Green Hills
IO-2006-0092	Sprint Missouri	Residential: Ferrelview, Platte City, and Weston	Time Warner, Exop dba Unite
		Business: Ferrelview, Platte City, St. Robert, and Waynesville	Exop dba Unite, Fidelity
TO-2006-0375	Sprint Missouri	Business: Jeff City / Holt Summit	Socket
		Residence: Jeff City / Holt Summit	Mediacom
IO-2006-0551	Embarq Missouri	Residence: Buckner, Odessa, Oak Grove, Lake Lotawana & Pleasant Hill	Comcast
TO-2007-0301	Embarq Missouri	Business: Lebanon	Fidelity
TO-2008-0028	Embarq Missouri	Residential: Lebanon	Fidelity
TO-2008-0147	Embarq Missouri	Residential: Ft. Leonard Wood, St. Robert and Waynesville	Fidelity
		Business: Warrensburg	Socket
TO-2008-0380	Embarq Missouri	Residential: Salem	Comcast
		Business: Buckner, Oak Grove, Odessa, Pleasant Hill, and Salem	Fidelity

Selected Carriers Authorized to Provide Local Services in Embarq's Exchanges*

<i>CLEC</i>	<i>Certification Date</i>	<i>Case Number</i>
Mediacom	May 5, 2005	LA-2005-0150
Socket	August 3, 2001	TA-2001-671
Fidelity	November 30, 1999	TA-2000-191
Time Warner Cable	March 2, 2004	LA-2004-0133
Granite Telecommunications	December 3, 2003	LA-2004-0124
American Fiber Network	March 3, 2003	TA-2000-305

* The above listing of CLECs, which have all been authorized to provide local exchange telecommunications services in all of Embarq's authorized service areas, represent only a partial listing of authorized CLECs.

GENERAL EXCHANGE TARIFF

Embarq Missouri, Inc.
d/b/a Embarq

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RULES AND REGULATIONS APPLYING TO ALL CUSTOMERS' CONTRACTS

IXX. MISSOURI STATUTORY AND REGULATORY WAIVERS

A. Rules

- 4 CSR 240-3.550(4) and (5)(A) - Telecommunications Company Records and Reports Requirements ⁽¹⁾
- 4 CSR 240-32.060 - Telecommunications Service - Engineering and Maintenance ⁽¹⁾
- 4 CSR 240-32.070 - Quality of Service ⁽¹⁾
- 4 CSR 240-32.080 - Service Objectives and Surveillance Levels ⁽¹⁾
- 4 CSR 240-33.040 (with the exception of subsection (4) which will remain in effect) - Billing and Payments Standards for Residential Customers ⁽¹⁾
- 4 CSR 240-33.045 - Requiring Clear Identification and Placement of Separately Identified Charges on Customer Bills ⁽¹⁾

B. Statutes

- Section 392.210 RSMo, Sub. 2 - System of Accounts ⁽¹⁾
- Section 392.240 RSMo, Sub. 1 - Election of Directors ⁽¹⁾
- Section 392.270 RSMo - Valuation of Property ⁽¹⁾
- Section 392.280 RSMo - Depreciation ⁽¹⁾
- Section 392.290 RSMo - Right to Issue Stocks, Bonds, and Notes ⁽¹⁾
- Section 392.300 RSMo - Transfer of Property ⁽¹⁾
- Section 392.310 RSMo - Approval of Issuance of Stocks, Bonds, etc. ⁽¹⁾
- Section 392.320 RSMo - Certificate of Approval for Dividends ⁽¹⁾
- Section 392.330 RSMo - Account for Disposition of Proceeds ⁽¹⁾
- Section 392.340 RSMo - Reorganization ⁽¹⁾

⁽¹⁾ Rules and Statutes waived pursuant to Notice of Election in Case No. xx-xxxx-xxxx, effective August 28, 2008.

ISSUED:
August 28, 2008

BY: Darlene N. Terry
Manager - Tariffs
5454 W. 110th Street
Overland Park, KS 66211

EFFECTIVE:
September 28, 2008